

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Plaridel Cerna Atil, M.D.)

Case No. 800-2016-023172

**Physician's and Surgeon's)
Certificate No. A 25167)**

Respondent)
_____)

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 6, 2019

IT IS SO ORDERED July 30, 2019

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-023172

13 **PLARIDEL CERNA ATIL, M.D.**
14 412 W. Carroll Ave., Ste. 202
Glendora, CA 91741

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate
16 No. A 25167,

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
23 Board of California ("Board"). She brought this action solely in her official capacity and is
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
25 Claudia Ramirez, Deputy Attorney General.

26 2. Plaridel Cerna Atil, M.D. ("Respondent") is represented in this proceeding by
27 attorney Michael A. Zuk, Esq., whose address is Herzfeld & Rubin LLP, 10866 Wilshire Blvd.,
28 Suite 800, Los Angeles, California, 90024.

3. On or about March 9, 1973, the Board issued Physician's and Surgeon's Certificate No. A 25167 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-023172 and will expire on September 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-023172 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 29, 2019. Respondent timely filed his Notice of Defense. A copy of Accusation No. 800-2016-023172 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-023172. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2016-023172, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of

1 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
2 basis with respect to the charges and allegations in the Accusation and that those charges
3 constitute cause for discipline. Respondent hereby gives up his right to contest that cause for
4 discipline exists based on those charges.

5 10. Respondent agrees that if he ever petitions for reinstatement of his Physician's and
6 Surgeon's Certificate No. A 25167, all of the charges and allegations contained in Accusation No.
7 800-2016-023172 shall be deemed true, correct and fully admitted by Respondent for purposes of
8 that reinstatement proceeding or any other licensing proceeding involving Respondent in the State
9 of California.

10 11. Respondent understands that by signing this stipulation he enables the Board to issue
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
12 process.

13 RESERVATION

14 12. The admissions made by Respondent herein are only for the purposes of this
15 proceeding, or any other proceedings in which the Medical Board of California or other
16 professional licensing agency is involved, and shall not be admissible in any other criminal or
17 civil proceeding.

18 CONTINGENCY

19 13. This stipulation shall be subject to approval by the Board. Respondent understands
20 and agrees that counsel for Complainant and the staff of the Board may communicate directly
21 with the Board regarding this stipulation and surrender, without notice to or participation by
22 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
23 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
24 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
25 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
26 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
27 be disqualified from further action by having considered this matter.

28 14. The parties understand and agree that Portable Document Format (PDF) and facsimile

1 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
2 thereto, shall have the same force and effect as the originals.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 25167 issued
7 to Respondent Plaridel Cerna Atil, M.D., is surrendered and accepted by the Board.

8 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
9 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
10 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
11 of Respondent's license history with the Board.

12 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
13 California as of the effective date of the Board's Decision and Order.

14 3. Respondent shall cause to be delivered to the Board his wall certificate and, if one
15 was issued, his pocket license on or before the effective date of the Decision and Order.

16 4. If Respondent ever files an application for licensure or a petition for reinstatement in
17 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
18 comply with all the laws, regulations and procedures for reinstatement of a revoked or
19 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
20 contained in Accusation No. 800-2016-023172 shall be deemed to be true, correct and admitted
21 by Respondent when the Board determines whether to grant or deny the petition.


22 5. If Respondent should ever apply or reapply for a new license or certification, or
23 petition for reinstatement of a license, by any other health care licensing agency in the State of
24 California, all of the charges and allegations contained in Accusation No. 800-2016-023172 shall
25 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
26 Issues or any other proceeding seeking to deny or restrict licensure.

27 **ACCEPTANCE**

28 I have carefully read the above Stipulated Surrender of License and Order and have fully

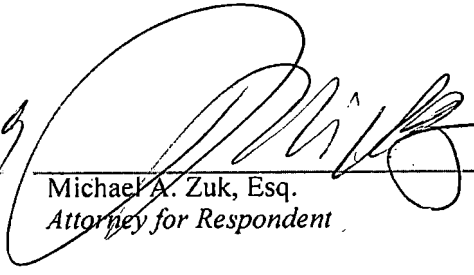
1 discussed it with my attorney, Michael A. Zuk, Esq. I understand the stipulation and the effect it
2 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
3 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
4 Decision and Order of the Medical Board of California.

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6
7 DATED: 6/20/19


Plaridel Cerna Atil, M.D.
Respondent

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10 I have read and fully discussed with Respondent Plaridel Cerna Atil, M.D. the terms and
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I
12 approve its form and content.

13
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15 DATED: 6/24/2019


Michael A. Zuk, Esq.
Attorney for Respondent

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17
18 **ENDORSEMENT**

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
20 for consideration by the Medical Board of California of the Department of Consumer Affairs.

21 Dated: 7/2/19

Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 E. A. JONES III
25 Supervising Deputy Attorney General


26 CLAUDIA RAMIREZ
27 Deputy Attorney General
28 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-023172

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 29 2017
BY ALBA CERRA ANALYST

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2016-023172

14 **PLARIDEL CERNA ATIL, M.D.**
412 W. Carroll Ave., Ste. 202
Glendora, CA 91741

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
16 No. A 25167,

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs ("Board").

24 2. On or about March 9, 1973, the Board issued Physician's and Surgeon's Certificate
25 Number A 25167 to Plaridel Cerna Atil, M.D. ("Respondent"). That Certificate was in full force
26 and effect at all times relevant to the charges brought herein and will expire on September 30,
27 2020, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 “(f) Any action or conduct that would have warranted the denial of a certificate.

2 “(g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of
5 the proposed registration program described in Section 2052.5.

6 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder
8 who is the subject of an investigation by the board.”

9 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
10 adequate and accurate records relating to the provision of services to their patients constitutes
11 unprofessional conduct.”

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Gross Negligence-Patient 1)**

14 7. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
15 in that he was grossly negligent in the care and treatment of Patient 1. The circumstances are as
16 follows:

17 **Patient 1**

18 8. On or about February 14, 2015, Respondent performed a laparoscopic
19 cholecystectomy and repair of an umbilical hernia on Patient 1, a then seventy-three-year-old
20 male. Patient 1’s anatomy was distorted due to inflammation, particularly at the infundibulum.
21 The gall bladder was noted to be friable and the swelling in the infundibulum made identification
22 of surgical landmarks extremely difficult. Respondent misperceived the anatomy, as what he
23 believed to be the cystic duct was instead the common bile duct, which he inadvertently dissected.
24 Respondent failed to recognize the common bile duct injury intraoperatively.

25 9. The risk of common bile duct injury is well known to be much increased in the setting
26 of acute cholecystitis, particularly when the anatomy is distorted. Respondent committed an
27 extreme departure from the standard of care when he failed to perform, or at least attempt, a
28 cholangiogram and/or convert to an open procedure (or to change the endpoint of the operation to

1 a cholecystostomy tube instead).

2 10. Respondent's acts and/or omissions as set forth in paragraphs 8 through 9, inclusive
3 above, whether proven individually, jointly, or in any combination thereof, constitute gross
4 negligence pursuant to Code section 2234, subdivision (b), with respect to the care and treatment
5 of Patient 1. Therefore, cause for discipline exists.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts-Patients 1 and 2)**

8 11. Respondent is subject to disciplinary action under Code section 2234, subdivision (c),
9 in that he engaged in repeated negligent acts in the care and treatment of Patient 1 and Patient 2.
10 The circumstances are as follows:

11 **Patient 1**

12 12. The facts and allegations in paragraphs 8 through 9, above, are incorporated by
13 reference and re-alleged as if fully set forth herein.

14 **Patient 2**

15 13. On or about July 25, 2015, Patient 2, a then thirty-three-year-old male, was diagnosed
16 with aspiration pneumonia and left upper lobe lung abscess with cavitation. On or about July 30,
17 2015, Respondent provided a consult to Patient 2 concerning a left upper lobe lobectomy in order
18 to remove the abscess. Respondent obtained informed consent from Patient 2 related to the
19 surgery and its potential risks. On or about July 31, 2015, Respondent operated on Patient 2.
20 During the surgery, the pulmonary vein was injured, which caused significant hemorrhage.
21 Despite a transfusion of packed red blood cells and open-chest resuscitation, Patient 2 had a
22 cardiac arrest and died.

23 14. Respondent departed from the standard of care in medical recordkeeping, accuracy,
24 details, clarity, and timeliness. Operative and/or procedural notes must be dictated within twenty-
25 four hours and be of sufficient detail, that would allow the "average" reader to glean the correct
26 and accurate information about the procedure being performed. It is unclear when Respondent
27 dictated the Consultation Report. It appears to have been dictated on July 31, 2015, at 17:19
28 hours (5:10 p.m.), which is after the surgery and patient's death. A patient cannot be transported

1 into the operating room without the operating surgeon documenting an updated note in the
2 patient's medical record. Respondent also failed to dictate sufficient detail in the Operative Note
3 concerning the events that occurred in the operating room.

4 15. Respondent's acts and/or omissions as set forth in paragraphs 12 through 14,
5 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
6 repeated negligent acts pursuant to Code section 2234, subdivision (c), with respect to Patient 1
7 and Patient 2. Therefore, cause for discipline exists.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Inadequate Recordkeeping-Patient 2)**

10 16. Respondent is subject to disciplinary action under Code section 2266 in that he
11 maintained inadequate medical records for Patient 2. The circumstances are as follows:

12 **Patient 2**

13 17. The facts and allegations in paragraphs 13 through 14, above, are incorporated by
14 reference and re-alleged as if fully set forth herein.

15 18. Respondent's acts and/or omissions as set forth in paragraph 17, inclusive above,
16 whether proven individually, jointly, or in any combination thereof, constitute inadequate
17 recordkeeping pursuant to Code section 2266 with respect to Patient 2. Therefore, cause for
18 discipline exists.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Medical Board of California issue a decision:

22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 25167
23 issued to Respondent Plaridel Cerna Atil, M.D.;

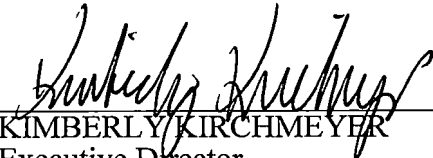
24 2. Revoking, suspending, or denying approval of Respondent Plaridel Cerna Atil,
25 M.D.'s authority to supervise physician assistants and advanced practice nurses;

26 3. Ordering Respondent Plaridel Cerna Atil, M.D., if placed on probation, to pay the
27 Board the costs of probation monitoring; and

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1 4. Taking such other and further action as deemed necessary and proper.
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5 DATED: May 29, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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